

COMMONWEALTH OF VIRGINIA
STATE AIR POLLUTION CONTROL BOARD

9 VAC 5 CHAPTER 500.
EXCLUSIONARY GENERAL PERMIT.

PART I.
DEFINITIONS.

- 9 VAC 5-500-10. General.
9 VAC 5-500-20. Terms defined.

9 VAC 5-500-10. General.

A. For the purpose of this chapter or any orders issued by the board, the words or terms shall have the meanings given them in 9 VAC 5-500-20.

B. Unless specifically defined in the Virginia Air Pollution Control Law or in this chapter, terms used shall have the meaning given them by 9 VAC 5-80-60 (definitions, federal operating permit), 9 VAC 5-10-20 (general definitions, Regulations for the Control and Abatement of Air Pollution), or commonly ascribed to them by recognized authorities, in that order of priority.

9 VAC 5-500-20. Terms defined.

"Actual emissions" means the actual emissions of a pollutant from a stationary source or emissions unit reflecting the rate, in tons per year, at which the source or unit actually emitted the pollutant during the most recent annual period. Actual emissions shall be calculated using the source or unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the annual period. Valid continuous emission monitoring data or source test data shall be preferentially used to determine actual emissions. In the absence of valid continuous emissions monitoring data or source test data, the basis for determining actual emissions shall be any or all of the following as may be determined by the department: throughputs of process materials; throughputs of materials stored; usage of materials; data provided in manufacturer's product specifications, material volatile organic compound content reports or laboratory analyses; other information required by this chapter and other regulations of the board; or information requested in writing by the department. All calculations of actual emissions shall use U.S. Environmental Protection Agency or department approved methods, including emission factors and assumptions.

"Annual period" means a period of twelve consecutive months determined on a rolling basis with a new 12-month period beginning on the first day of each calendar month.

"Federal operating permit" means a permit issued pursuant to Article 1 (9 VAC 5-

80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80.

"General permit" means the terms and conditions in Part IV (9 VAC 5-500-150 et seq.) of this chapter that meet the requirements of Part III (9 VAC 5-500-90 et seq.) of this chapter.

"New source review program" means a program for the preconstruction review and permitting of new stationary sources or emissions units or expansions to existing ones in accordance with regulations promulgated to implement the requirements of §§110(a)(2)(C), 165 (relating to permits in prevention of significant deterioration areas) and 173 (relating to permits in nonattainment areas) of the federal Clean Air Act.

"Nonattainment pollutant" means volatile organic compounds or nitrogen oxides (NO_x).

"Regulation of the board" means any regulation adopted by the State Air Pollution Control Board under any provision of the Code of Virginia.

"Regulations for the Control and Abatement of Air Pollution" means 9 VAC 5 Chapter 10 (9 VAC 5-10-10 et seq.) through Chapter 80 (9 VAC 5-80-10 et seq.).

"State operating permit" a permit issued pursuant to 9 VAC 5-80-40.

PART II.
GENERAL PROVISIONS.

9 VAC 5-500-30.	Purpose.
9 VAC 5-500-40.	Applicability.
9 VAC 5-500-50.	General.
9 VAC 5-500-60.	Existence of permit no defense.
9 VAC 5-500-70.	Circumvention.
9 VAC 5-500-80.	Enforcement of a general permit.

9 VAC 5-500-30. Purpose.

A. The purpose of the exclusionary general permit is to provide a legally enforceable mechanism for major sources subject to the federal operating permit program (Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80) to be excluded from the program provided they maintain their actual annual emissions at a specified level that is less than the potential to emit applicability thresholds for the federal operating permit program. This is one of two alternative permit mechanisms the State Air Pollution Control Board has to accomplish this purpose; the other is a state operating permit program (9 VAC 5-80-40).

B. This chapter does not require any owner to apply for coverage under the general permit but provides the opportunity for an owner to apply for coverage if the stationary source meets the criteria in 9 VAC 5-500-90 A and all other requirements of this chapter.

9 VAC 5-500-40. Applicability.

A. Except as provided in subsection E of this section, this chapter applies to any major source.

B. This chapter applies throughout the Commonwealth of Virginia.

C. This chapter applies only to regulated air pollutants.

D. This chapter shall not apply to the following stationary sources:

1. Any stationary source that has applied for a federal operating permit in a timely manner and in conformance with Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80 and is awaiting final action by the board.

2. Any stationary source required to obtain a federal operating permit under Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80 for any reason other than being a major source. This includes, but is not limited to, the following: any source, including an area source, subject to any standard or

other requirement adopted pursuant to §111 or §112 of the federal Clean Air Act.

3. Any stationary source which has a valid federal operating permit.

4. Any stationary source which has a valid state operating permit with federally enforceable conditions or other federally enforceable limits limiting its potential to emit below the applicable thresholds for a major source.

E. Notwithstanding subsections D 1 and D 3 of this section, nothing in this section shall prevent any stationary source which has had a federal operating permit from obtaining an authorization to operate under the general permit in lieu of maintaining an application for a federal operating permit or upon rescission of a federal operating permit if the owner demonstrates that the stationary source meets the criteria in 9 VAC 5-500-90 A for two annual periods (24 consecutive months).

F. Notwithstanding subsection D 4 of this section, nothing in this section shall prevent any stationary source which has had a state operating permit from obtaining an authorization to operate under the general permit in lieu of maintaining an application for a state operating permit or upon rescission of a state operating permit if the owner demonstrates that the stationary source meets the criteria in 9 VAC 5-500-90 A for two annual periods (24 consecutive months).

9 VAC 5-500-50. General.

A. Any owner or other person shall operate the stationary source in conformance with all applicable regulations of the board.

B. Sources desiring authority to operate under the general permit shall register with the department as required under 9 VAC 5-20-160 and certify that they will operate in compliance with the provisions of this chapter. All emissions units or groups of emissions units, other than those units identified in 9 VAC 5-80-720, shall be registered.

C. Sources authorized to operate under the general permit shall be exempt from the requirements of 9 VAC 5-80-40 and Articles 1 (9 VAC 5-80-50 et seq.), 2 (9 VAC 5-80-310 et seq.) and 3 (9 VAC 5-80-360 et seq.) of 9 VAC 5 Chapter 80.

D. No provision of this chapter shall limit the power of the board to issue an operating permit pursuant to 9 VAC 5-80-40.

E. This chapter shall not relieve any stationary source from complying with requirements of (i) any otherwise applicable permit issued pursuant to the new source review program, (ii) any condition or term of any new source review program permit, or (iii) any provision of a new source review permit program. This chapter shall not preclude issuance of any new source review permit with conditions or terms necessary to ensure compliance with this chapter.

F. This chapter shall not relieve any stationary source from complying with any applicable requirement.

G. In cases where the provisions of Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80 conflict with those of this section, the provisions of Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80 shall prevail.

H. By the adoption of this chapter, the board confers upon the department the administrative, enforcement and decision making authority enumerated therein.

I. Except as provided in subsection J of this section, any decisions of the board or department made pursuant to this chapter may be appealed pursuant to 9 VAC 5-20-90 or 9 VAC 5-20-130 B 2.

J. The act of granting or denying an application for authority to operate under the general permit shall not be subject to judicial review.

9 VAC 5-500-60. Existence of permit no defense.

The existence of a permit under this chapter shall not constitute a defense of a violation of the Virginia Air Pollution Control Law or the regulations of the board and shall not relieve any owner of the responsibility to comply with any applicable requirements, regulations, laws, ordinances and orders of the governmental entities having jurisdiction.

9 VAC 5-500-70. Circumvention.

A. No owner or other person shall cause or permit the installation or use of any device or any means which, without resulting in reduction in the total amount of air pollutants emitted, conceals or dilutes an emission of air pollutants which would otherwise violate this chapter. Such concealment includes, but is not limited to, either of the following:

1. The use of gaseous diluents to achieve compliance with a visible emissions standard or with a standard which is based on the concentration of a pollutant in gases discharged to the atmosphere.

2. The piecemeal carrying-out of an operation to avoid coverage by a standard that applies only to operations larger than a specified size.

B. This section does not prohibit the construction of a stack.

C. Regardless of the exemptions provided in this chapter, permits shall be required of owners who circumvent the requirements of this chapter by causing or allowing a pattern of ownership or development over a geographic area of a source which, except for the pattern of ownership or development, would otherwise require a

permit.

9 VAC 5-500-80. Enforcement of a general permit.

A. The following general requirements apply:

1. Pursuant to §10.1-1322 of the Virginia Air Pollution Control Law, failure to comply with any term or condition of the general permit shall be considered a violation of the Virginia Air Pollution Control Law.

2. Authorization to operate under the general permit may be revoked or terminated if the owner does any of the following:

a. Knowingly makes material misstatements in the application for coverage or any amendments thereto.

b. Violates, fails, neglects or refuses to comply with (i) the terms or conditions of the permit, (ii) any applicable requirements, or (iii) the applicable provisions of this chapter.

3. The department may suspend, under such conditions and for such period of time as the department may prescribe, any authorization to operate under the general permit for any of the grounds for revocation or termination contained in subdivision 2 of this subsection or for any other violations of the regulations of the board.

B. The following requirements apply with respect to penalties:

1. An owner who violates, fails, neglects or refuses to obey any provision of this chapter or the Virginia Air Pollution Control Law, any applicable requirement, or any permit term or condition shall be subject to the provisions of § 10.1-1316 of the Virginia Air Pollution Control Law.

2. Any owner who knowingly violates, fails, neglects or refuses to obey any provision of this chapter or the Virginia Air Pollution Control Law, any applicable requirement, or any permit term or condition shall be subject to the provisions of § 10.1-1320 of the Virginia Air Pollution Control Law.

3. Any owner who knowingly makes any false statement, representation or certification in any form, in any notice or report required by a permit, or who knowingly renders inaccurate any required monitoring device or method shall be subject to the provisions of §10.1-1320 of the Virginia Air Pollution Control Law.

C. The following requirements apply with respect to appeals:

1. The department shall notify the applicant in writing of its decision, with its reasons, to suspend, revoke or terminate the authorization to operate under the general

permit in accordance with the Administrative Process Act.

2. Appeal from any decision of the department under subdivision 1 of this subsection may be taken pursuant to 9 VAC 5-20-90, § 10.1-1318 of the Virginia Air Pollution Control Law, and the Administrative Process Act.

D. The following requirements apply with respect to inspections and right of entry:

1. The director, as authorized under §10.1-1307.3 of the Virginia Air Pollution Control Law and 9 VAC 5-20-150, has the authority to require that air pollution records and reports be made available upon request and to require owners to develop, maintain, and make available such other records and information as are deemed necessary for the proper enforcement of the general permit.

2. The director, as authorized under §10.1-1307.3 of the Virginia Air Pollution Control Law, has the authority, upon presenting appropriate credentials to the owner, to do the following:

a. Enter without delay and at reasonable times any business establishment, construction site, or other area, workplace, or environment in the Commonwealth; and

b. Inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, without prior notice, unless such notice is authorized by the department or its representative, any such business establishment or place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and question privately any such employer, officer, owner, operator, agent, or employee. If such entry or inspection is refused, prohibited, or otherwise interfered with, the department shall have the power to seek from a court having equity jurisdiction an order compelling such entry or inspection.

E. The board may enforce the general permit through the use of other enforcement mechanisms such as consent orders and special orders. The procedures for using these mechanisms are contained in 9 VAC 5-20-20 and 9 VAC 5-20-30 and in §§10.1-1307 D, 10.1-1309, and 10.1-1309.1 of the Virginia Air Pollution Control Law.

PART III.
GENERAL PERMIT ADMINISTRATIVE PROCEDURES.

- 9 VAC 5-500-90. Requirements for department issuance of authority to operate under the general permit.
- 9 VAC 5-500-100. Applications for coverage under the general permit.
- 9 VAC 5-500-110. Required application information.
- 9 VAC 5-500-120. General permit content.
- 9 VAC 5-500-130. Issuance of an authorization to operate under the general permit.
- 9 VAC 5-500-140. Transfer of authorizations to operate under the general permit.

9 VAC 5-500-90. Requirements for department issuance of authority to operate under the general permit.

A. The department may issue an authorization to operate under the general permit for a stationary source that does not exceed any of the following levels of actual emissions in the two annual periods (24 consecutive months) preceding submittal of an application under 9 VAC 5-500-100:

1. 50 tons per year of any regulated air pollutant (excluding nonattainment pollutants in serious nonattainment areas and hazardous air pollutants).
2. 25 tons per year of volatile organic compounds or nitrogen oxides in a serious ozone nonattainment area.
3. 5 tons per year of a single hazardous air pollutant.
4. 12.5 tons per year of any combination of hazardous air pollutants.

B. Stationary sources or emissions units subject to the general permit shall comply with all requirements applicable to other permits issued under 9 VAC 5 Chapter 80 (9 VAC 5-80-10 et seq.).

C. The general permit shall be issued in accordance with §9-6.14:4.1 C 11 of the Administrative Process Act.

9 VAC 5-500-100. Applications for coverage under the general permit.

A. Stationary sources that qualify for the general permit may apply to the department for coverage under the terms and conditions of the general permit. Stationary sources that do not qualify for the general permit shall apply for a permit issued under the provisions of 9 VAC 5-80-40 or Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-80-360 et seq.) of Part II of 9 VAC 5 Chapter 80.

B. A single application is required identifying each emissions unit or groups of emissions units to be covered by the general permit. The application shall be submitted according to the requirements of this section, 9 VAC 5-500-110 and procedures approved by the department. Where several emissions units are included in one stationary source, a single application covering all units in the source shall be submitted. A separate application is required for each stationary source subject to this chapter.

C. The application shall meet the requirements of this chapter and include all information necessary to determine qualification for and to assure compliance with the general permit.

D. Any application form, report, compliance certification, or other document required to be submitted to the department under this chapter shall be signed by a responsible official and shall include the following certification signed by the responsible official:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

E. Subsection D of this section shall be interpreted to mean that the signer must have some form of direction or supervision over the persons gathering the data and preparing the document (the preparers), although the signer need not personally nor directly supervise these activities. The signer need not be in the same line of authority as the preparers, nor do the persons gathering the data and preparing the form need to be employees (e.g., outside contractors can be used). It is sufficient that the signer has authority to assure that the necessary actions are taken to prepare a complete and accurate document.

F. Any applicant who fails to submit any relevant facts or who has submitted incorrect information in an application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information.

9 VAC 5-500-110. Required application information.

A. The department shall furnish application forms to applicants. The information required by this section shall be determined and presented according to procedures and methods acceptable to the department.

B. Each application for coverage under the general permit shall include, but not be limited to, the information listed in subsections C through G of this section.

C. Identifying information as follows shall be included:

1. Company name and address (or plant name and address if different from the company name), owner's name and agent, and telephone number and names of plant site manager or contact or both.
2. A description of the source's processes and products (by Standard Industrial Classification Code).
3. Identification of each emissions unit or group of emission units at the stationary source for which the application is submitted.

D. Emissions-related information as follows shall be included:

1. All emissions of regulated air pollutants for which the stationary source qualifies as a major source.
 - a. An application shall describe all emissions units or groups of emissions units. This requirement shall not apply to emissions units listed in 9 VAC 5-80-720.
 - b. Emissions shall be determined as provided in the application form or other instructions from the department.
 - c. Fugitive emissions shall be included in the application to the extent that the emissions are necessary to determine if the stationary source qualifies as a major source.
2. Calculations on which the information in subdivision 1 of this subsection is based. Any calculations shall include sufficient detail to permit assessment of the validity of the calculations and to enable the department to verify the actual emissions and potential to emit for the stationary source. This may include, but not be limited to, the following:
 - a. Actual and potential emissions in tons per annual period for each emissions unit or group of emission units.
 - b. Information needed to determine emissions as follows: fuels, fuel use, raw materials, production rates, loading rates, and operating schedules.
 - c. Identification and description of air pollution control equipment and compliance monitoring devices or activities.

E. Additional information that the department deems necessary to implement and enforce other requirements of the regulations of the board or to determine the applicability

of such requirements.

F. Any additional information or documentation that the department deems necessary to review and analyze the air pollution aspects of the source.

G. Compliance certification information as follows shall be included: a certification of compliance with all applicable requirements by a responsible official.

9 VAC 5-500-120. General permit content.

A. The general permit issued under this chapter shall include the elements listed in subsections B through H of this section.

B. The general permit shall contain terms and conditions setting forth the applicable emissions levels and requirements sufficient to assure compliance with the criteria in 9 VAC 5-500-90 A and the regulations of the board.

C. The general permit shall contain terms and conditions setting forth the following requirements with respect to emission testing sufficient to assure compliance with the emissions levels and requirements of the permit:

1. Requirements providing that owners of stationary sources subject to the general permit may conduct emission tests, establish and maintain records, and make periodic emission reports as necessary to determine the actual emissions for the stationary source.

2. For cases where the owner elects to use the emission testing to determine the actual emissions for the stationary source, the permit shall prescribe the procedures for the conduct of the emission tests.

D. The general permit shall contain terms and conditions setting forth the following requirements with respect to emission monitoring sufficient to assure compliance with the emissions levels and requirements of the permit:

1. Requirements providing that owners of stationary sources subject to the general permit may install, calibrate, operate and maintain equipment for continuously monitoring and recording emissions or process parameters or both, and establish and maintain records, and make periodic emission reports as necessary to determine the actual emissions for the stationary source.

2. For cases where the owner elects to use the emission monitoring to determine the actual emissions for the stationary source, the permit shall prescribe the procedures for the installation, calibration, operation and maintenance of equipment for continuously monitoring and recording emissions or process parameters or both.

E. The general permit shall contain terms and conditions setting forth the following

requirements concerning recordkeeping and reporting sufficient to assure compliance with the emissions levels and requirements of the permit:

1. Requirements providing that owners of stationary sources subject to the general permit shall establish and maintain records, provide notifications and reports, revise reports, report emission tests or monitoring results in a manner and form and using procedures as the general permit may prescribe.

2. The permit shall prescribe the procedures for providing notifications and reports, revising reports, maintaining records or reporting emission test or monitoring result.

3. The recordkeeping and reporting provisions in this subsection shall not apply to stationary sources with actual emissions less than or equal to all of the following for every annual period:

- a. 20 tons per year of a regulated air pollutant (excluding nonattainment pollutants in a serious nonattainment area and hazardous air pollutants).

- b. 10 tons per year of volatile organic compounds or nitrogen oxides in a serious ozone nonattainment area.

- c. 2 tons per year of a single hazardous air pollutant.

- d. 5 tons per year of any combination of hazardous air pollutants.

4. Within 30 days of a written request by the department, the owner of a stationary source not maintaining records pursuant to subdivision 3 of this subsection shall demonstrate that the stationary source's emissions are not in excess of the applicable quantities set forth in subdivision 3 of this subsection.

F. The general permit shall contain terms and conditions with respect to enforcement sufficient to assure compliance with the emissions levels and requirements of the permit.

G. The general permit shall contain terms and conditions setting forth the following requirements with respect to compliance sufficient to assure compliance with the terms and conditions of the permit:

1. Requirements providing for compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit.

2. Requirements providing for inspection and entry sufficient to assure compliance with the terms and conditions of the permit. At a minimum the permit shall require that, upon presentation of credentials and other documents as may be required by

law, the owner shall allow the department to perform the following:

- a. Enter upon the premises where the source is located or emissions-related activity is conducted, or where records must be kept under the terms and conditions of the permit.
- b. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of the permit.
- c. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.
- d. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

H. The permit shall contain terms and conditions pertaining to other requirements as may be necessary to ensure compliance with the regulations of the board, the Virginia Air Pollution Control Law and the federal Clean Air Act.

9 VAC 5-500-130. Issuance of an authorization to operate under the general permit.

A. The department shall grant authorization to operate under the conditions and terms of the general permit to stationary sources that meet the criteria set forth in 9 VAC 5-500-90 A.

B. The issuance of an authorization to operate under the general permit to a stationary source covered by the general permit shall not require compliance with the public participation procedures under §9-6.14:4.1 C 11 of the Administrative Process Act.

C. A response to each application for coverage under the general permit shall be provided. The general permit may specify a reasonable time period after which a stationary source that has submitted an application shall be deemed to be authorized to operate under the general permit.

D. Stationary sources covered under a general permit shall be issued a letter, a certificate, or any other document which would attest that the stationary source is authorized to operate under the general permit. The document shall be accompanied by a copy of the general permit and the application submitted by the permittee.

E. The letter, certificate or other document, along with the copy of the general permit and application, shall be retained by the department and at the stationary source.

9 VAC 5-500-140. Transfer of authorizations to operate under the general permit.

A. No person shall transfer an authorization to operate under the general permit

from one stationary source to another or from one piece of equipment to another.

B. In the case of a transfer of ownership of a stationary source, the new owner shall comply with any permit issued to the previous owner. The new owner shall notify the department of the change in ownership within 30 days of the transfer.

C. In the case of a name change of a stationary source, the owner shall comply with any permit issued under the previous source name. The owner shall notify the department of the change in source name within 30 days of the name change.

PART IV.
GENERAL PERMIT TERMS AND CONDITIONS.

- 9 VAC 5-500-150. Emissions levels and requirements.
- 9 VAC 5-500-160. Emissions levels.
- 9 VAC 5-500-170. Compliance determination and verification by emission testing.
- 9 VAC 5-500-180. Compliance determination and verification by emission monitoring.
- 9 VAC 5-500-190. Recordkeeping requirements.
- 9 VAC 5-500-200. Reporting requirements.
- 9 VAC 5-500-210. Compliance certifications.
- 9 VAC 5-500-220. Consequences of failure to remain below emissions levels.
- 9 VAC 5-500-230. Enforcement.
- 9 VAC 5-500-240. Review and evaluation of regulation.

9 VAC 5-500-150. Emissions levels and requirements.

A. Sources operating under this permit shall meet the emissions levels in 9 VAC 5-500-160 in order to continue to operate under the authority of this permit.

B. Sources operating under this permit shall operate in compliance with the standards set in 9 VAC 5 Chapters 40 (9 VAC 5-40-10 et seq.), 50 (9 VAC 5-50-10 et seq.) and 60 (9 VAC 5-60-10 et seq.) and other applicable requirements and provisions of the regulations of the board.

C. The permittee shall obtain any necessary permits prior to commencing any physical or operational change or activity which will result in actual emissions that exceed the emissions levels specified in 9 VAC 5-500-160.

9 VAC 5-500-160. Emissions levels.

In order to operate under the authority of this permit, a stationary source shall not exceed any of the following levels of actual emissions in any annual period:

1. 50 tons per year of any regulated air pollutant (excluding nonattainment pollutants in serious nonattainment areas and hazardous air pollutants).

2. 25 tons per year of volatile organic compounds or nitrogen oxides in a serious ozone nonattainment area.

3. 5 tons per year of a single hazardous air pollutant.

4. 12.5 tons per year of any combination of hazardous air pollutants.

9 VAC 5-500-170. Compliance determination and verification by emission testing.

A. The permittee may conduct emission tests, establish and maintain records, and make periodic emission reports as necessary to determine the actual emissions for the stationary source.

B. Upon request of the department, the permittee shall conduct emission tests as are necessary to determine the type or amount or both of the pollutants emitted from the source or whether the source will be in compliance with 9 VAC 5-500-160 or any other provisions of any regulation of the board.

C. The emission testing conducted under this section shall be carried out in accordance with the provisions of 9 VAC 5 Chapters 40 (9 VAC 5-40-10 et seq.), 50 (9 VAC 5-50-10 et seq.) and 60 (9 VAC 5-60-10 et seq.), as applicable, or by other means acceptable to the department.

9 VAC 5-500-180. Compliance determination and verification by emission monitoring.

A. The permittee may install, calibrate, operate and maintain equipment for continuously monitoring and recording emissions or process parameters or both, and establish and maintain records, and make periodic emission reports as necessary to determine the actual emissions for the stationary source.

B. Upon request of the department, the permittee shall install, calibrate, maintain and operate equipment for continuously monitoring and recording emissions or process parameters or both as are necessary to determine the type or amount or both of the pollutants emitted from the source or whether the source will be in compliance with 9 VAC 5-500-160 or any other provisions of any regulation of the board.

C. The emission monitoring conducted under this section shall be carried out in accordance with the provisions of 9 VAC 5 Chapters 40 (9 VAC 5-40-10 et seq.), 50 (9 VAC 5-50-10 et seq.) and 60 (9 VAC 5-60-10 et seq.), as applicable, or by other means acceptable to the department.

D. Where the applicable requirement cited in subsection C of this section does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the general permit, as reported pursuant to 9 VAC 5-500-190 C 1. Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this subsection.

9 VAC 5-500-190. Recordkeeping requirements.

A. The permittee, unless exempted under 9 VAC 5-500-120 E 3, shall comply with the recordkeeping requirements in this section. The recordkeeping requirements of this

permit shall not replace any recordkeeping requirement contained in other state or federal rules or regulations.

B. The permittee shall keep and maintain records for each emission unit or groups of emission units sufficient to determine the actual emissions of the stationary source. Such information shall be summarized in a monthly log, maintained on site for five years, and be made available to the department upon request. Any records, notifications, reports, or tests providing the basis for the summary shall be retained by the permittee for at least five years following the date of such records, notifications, reports or tests.

C. To meet the requirements of 9 VAC 5-500-180 with respect to recordkeeping, the permittee shall comply with the following:

1. Records of monitoring information shall include the following:

- a. The date, place as defined in the permit, and time of sampling or measurements.
- b. The date(s) analyses were performed.
- c. The company or entity that performed the analyses.
- d. The analytical techniques or methods used.
- e. The results of such analyses.
- f. The operating conditions existing at the time of sampling or measurement.

2. Records of all monitoring data and support information shall be retained for at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

D. The recordkeeping requirements under this section shall be carried out in accordance with the provisions of 9 VAC 5 Chapters 40 (9 VAC 5-40-10 et seq.), 50 (9 VAC 5-50-10 et seq.) and 60 (9 VAC 5-60-10 et seq.), as applicable, or by other means acceptable to the department.

9 VAC 5-500-200. Reporting requirements.

A. The permittee, unless exempted under 9 VAC 5-500-120 E 3, shall comply with the reporting requirements in this section. Any document (including reports) required by a permit term or condition to be submitted to the department shall contain a certification by a responsible official that meets the requirements of 9 VAC 5-500-100 D.

B. The permittee shall submit, according to procedures established by the department, an annual emissions update. Any additional information requested by the department under this subsection shall be submitted to the department within 30 days of the date of request.

C. To meet the requirements of 9 VAC 5-500-180 with respect to reporting, the permittee shall submit reports of any required monitoring at least every six months. All instances of deviations from permit requirements must be clearly identified in such reports.

D. If a stationary source or emissions unit is shut down, the permittee shall notify the board within six months of the date the stationary source or emissions unit is shut down.

9 VAC 5-500-210. Compliance certifications.

A. The department shall evaluate a stationary source's compliance with the emissions levels in 9 VAC 5-500-160 as part of the department's annual compliance process. In performing the evaluation, the department shall consider any annual emission update submitted pursuant to 9 VAC 5-500-200.

B. Upon presentation of credentials and other documents as may be required by law, the permittee shall allow the department to perform the following:

1. Enter upon the premises where the source is located or emissions-related activity is conducted, or where records must be kept under the terms and conditions of the permit.

2. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of the permit.

3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

4. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

C. The permittee shall submit, along with the annual emissions update, to the department an annual compliance certification containing the following:

1. The identification of each term or condition of the permit that is the basis of the certification.

2. The compliance status.

3. Whether compliance was continuous or intermittent, and if not continuous, documentation of each incident of non-compliance.

4. The method or methods used for determining the compliance status of the source at the time of certification and over the reporting period.

5. Such other information as the department may require to determine the compliance status of the source.

9 VAC 5-500-220. Consequences of failure to remain below emissions levels.

A. A stationary source subject to the general permit shall be subject to applicable federal requirements for a major source, including 9 VAC 5-80-40 (state operating permit) and Article 1 (9 VAC 5-80-50 et seq.) or Article 3 (9 VAC 5-50-360 et seq.) of Part II of 9 VAC 5 Chapter 80 (federal operating permit), when either of the following conditions occur:

1. Commencing on the first day following any annual period in which the stationary source exceeds an emissions levels specified in 9 VAC 5-500-160.

2. Commencing on the first day following any annual period in which the owner can not demonstrate that the stationary source is in compliance with the emissions levels specified in 9 VAC 5-500-160.

B. Any stationary source who becomes subject to federal applicable requirements for a major source as provided in subsection A of this section may continue to operate under the authority of the permit until a state operating permit or federal operating permit is issued provided the following conditions are met:

1. At least 30 days prior to the end of any annual period during which the actual emissions of the stationary source is expected to exceed the emissions levels in 9 VAC 5-500-160, the owner has notified the department that he will submit an application for a federal operating permit or state operating permit, and

2. A complete federal operating permit application is received by the department, or the permit action to obtain a state operating permit is completed, within 12 months of the date of notification.

9 VAC 5-500-230. Enforcement.

A. Violation of this permit is subject to the enforcement provisions including, but not limited to, those contained in 9 VAC 5 Chapter 20 (9 VAC 5-20-10 et seq.) and §§10.1-1309, 10.1-1311 and 10.1-1316 of the Virginia Air Pollution Control Law.

B. If any condition, requirement or portion of the permit is held invalid or

inapplicable under any circumstance, such invalidity or inapplicability shall not affect or impair the remaining conditions, requirements, or portions of the permit.

C. The permittee shall comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Virginia Air Pollution Control Law and is grounds (i) for enforcement action or (ii) for termination, revocation and reissuance, or modification of the authorization to operate under the general permit.

D. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

E. The authorization to operate under the general permit may be revoked and reissued or terminated for cause as specified in 9 VAC 5-500-80. The filing of a request by the permittee for authorization revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

F. The owner of the stationary source shall be subject to enforcement action under 9 VAC 5-500-80 for operation without a permit if the stationary source is later determined by the department not to qualify for the conditions and terms of the general permit.

G. The general permit does not convey any property rights of any sort, or any exclusive privilege.

H. The permittee shall furnish to the department, within a reasonable time, any information that the department may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the authorization to operate under the general permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the department copies of records required to be kept by the permit and, for information claimed to be confidential, the permittee shall furnish such records to the department along with a claim of confidentiality.

9 VAC 5-500-240. Review and evaluation of regulation.

A. Prior to July 1, 2000, the department shall perform an analysis on this chapter and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the chapter, (ii) alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner, (iii) an assessment of the effectiveness of this chapter, (iv) the results of a review of current state and federal statutory and regulatory requirements, including identification and justification of requirements of this chapter which are more stringent than federal requirements, and (v) the results of a review as to whether this chapter is clearly written and easily understandable by affected entities.

B. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendment, (ii) repeal this chapter or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.

HISTORICAL NOTES:

Effective Date: July 1, 1997

Promulgated: July 1, 1997

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